IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5931 of 1999
With
SCA Nos.6478, 6488 to 6514, 6516, 6517, 6479, to 6481, 6483 to 6487, 7762, 7949 to 7993 of 1999 and 1749 to 1755 of 2000

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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INDIAN OIL CORPORATION LTD. - Petitioner(s)
Versus
S S PATHAN - Respondent(s)

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Appearance :
MR KEYUR GANDHI for NANAVATI ASSOCIATES for Petitioner- IOC.
MR SI NANAVATI WITH MR DG SHUKLA for NANAVATI & NANAVATI for Respondent for respondents-workmen

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 26/08/2005

ORAL JUDGMENT

1. The petitioner Indian Oil Corporation (IOC) has challenged the

consolidated order dated 27.5.1999 passed by the Labour Court, Vadodara in Recovery Application No.604/95 filed by respondent-workmen under the provisions of Section 33-C(2) of the Industrial Disputes Act.

2. The petitioner IOC had employed around 100 permanent workmen. So far as permanent workmen are concerned, periodically settlements were arrived at between the petitioner and the recognised union of the workmen.

3. In the course of activity, the petitioner required certain casual workmen for its work. Therefore names were called from employment exchange and other agencies and after taking interviews about 50 casual workmen were employed as casual workmen on daily rated basis.

4. The respondents raised a dispute which was ultimately referred to the Industrial Tribunal, Vadodara. The Industrial Tribunal vide award dated 31.3.1993 directed that the 50 workmen shown in the schedule should be regularised after counting half years of the total service from the date of their employment and that they shall be treated in the regular pay scale. It was also directed to give them other benefits like leave salary, etc. The petitioner challenged the said award before this Court and before Supreme Court without success. The petitioner thereafter implemented the said award. The respondents thereafter filed recovery applications before the Labour Court,

Baroda under the provisions of section 33C(2) of the Act. The Labour Court, Vadoara, has allowed the recovery applications and granted the benefits as prayed for.

5. On 12.10.1999 this Court has passed the following order:

> "Heard the learned advocates for the respective parties.
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> 2. Rule to be issued in each of these petitions. Learned advocate Mr. Nanavati appearing for the concerned respondents waives service of rule.
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> 3. By way of interim arrangement, it is directed that the Indian Oil Corporation shall, within a period of ten weeks from today, pay to each of the workmen all the monetary benefits, except the claim made against Uniform Allowance, Leave Fare Assistance, Leave Encashment and Medical allowance."

6. In view of the peculiar facts and circumstances of the case the Court has suggested the learned counsel for the respective parties to settle the matter if possible. In pursuance of the same an affidavit has been filed on behalf IOC which reads as under:

> "I, Yeluru Kirankumar, Adult, Hindu, Indian inhabitant residing at Mumbai, state on solemn affirmation, as udner:-
>
> Without prejudice to the rights and contentions in the present proceedings and without prejudice to agitate the issues involved in the present proceedings after producing necessary records in

> the recovery applications filed by the respondents pending in the Labour Court, being Recovery Application Nos.697 to 741 of 2004 pending before Labour Court Vadodara, the Corporation is prepared to pay differential amount (that is to say after deducting the amount already paid pending hearing of the present petition as directed by the Labour Court), with a view to put an end to the present litigation No.5931 of 1999 and group matters with reference to 1/90 dated 31.3.1993, 197/95, 198 to 220/95, 265 to 275/95, 580 to 583/95, 599 to 604/95 and 47/96. It may kindly be clarified that this order will neither be treated as precedent in the other proceedings nor will be relied upon as concessions on the part of the Corporation that the claim made by the respondents are either accepted or agreed to by the Corporation."

7. Learned counsel for the respondent-workman has agreed to accept such payment as stated hereinabove.

8. In view of the above, the following order is passed:

[a] The petitioner-IOC shall pay the differential amount i.e. After deducting the amount already paid pending hearing of the present petition as directed by the Labour Court) to the respondent-workman within a period of four weeks from today.

[b] On the facts and circumstances of the case the respondent-workmen will not be entitled to any interest on the amount offered by the petitioner-IOC.

9. The awards of the Labour Court are modified to the aforesaid extent.

10. It is clarified that in view of the acceptance of suggestion made by this Court, the present order has been passed without entering into the merits of the matter and this order has been passed without prejudice to the rights and contentions of both the parties in any litigations which may be pending before any of the Court.

11. With the above directions the petitions are disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

12. In view of the facts and circumstances of the case th petitions filed by the employees claiming interest are not entertained and the same are rejected. Rule is discharged with no order as to costs.

[K.S. JHAVERI, J.]

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